

MONTANA LEGISLATIVE HISTORY

Chapter 464 19 85

Bill H _____ S 247

Original bill & history / C

H. Committee on 5/6/85 Rdn

Hearing Date(s) 3/20 / C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on 5/6/85 Rdn

Hearing Date(s) 2/12 / C

2/15 / C

_____ C

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Did this bill originate in an interim committee? _____ Yes / No

Committee _____

Report _____

SENATE FINAL STATUS

TRANSMITTED TO HOUSE		
2/27	REFERRED TO TAXATION	
3/20	HEARING	
3/20	COMMITTEE REPORT-BILL CONCURRED	
3/23	2ND READING CONCURRED	93 0
3/25	3RD READING CONCURRED	99 1

RETURNED TO SENATE
 3/30 SIGNED BY PRESIDENT
 3/30 SIGNED BY SPEAKER

4/01 -TRANSMITTED TO GOVERNOR
 4/04 SIGNED BY GOVERNOR
 CHAPTER NUMBER 353 EFFECTIVE DATE: 10/01/85

SB 247 INTRODUCED BY DANIELS
 EMPLOYER PICK-UP OF EMPLOYEE CONTRIBUTIONS TO PUBLIC
 RETIREMENT SYSTEMS
 BY REQUEST OF PUBLIC EMPLOYEES' RETIREMENT BOARD

1/24 INTRODUCED		
1/25	REFERRED TO STATE ADMINISTRATION	
1/28	FISCAL NOTE REQUESTED	
1/31	FISCAL NOTE RECEIVED	
2/12	HEARING	
2/15	COMMITTEE REPORT-BILL PASS AS AMENDED	
2/19	2ND READING PASS	33 9
2/21	3RD READING PASS	45 2

TRANSMITTED TO HOUSE		
2/27	REFERRED TO STATE ADMINISTRATION	
3/20	HEARING	
3/20	COMMITTEE REPORT-BILL CONCURRED	
3/23	2ND READING CONCURRED	87 8
3/23	REREFERRED TO APPROPRIATIONS	
3/28	HEARING	
4/01	COMMITTEE REPORT-BILL CONCURRED	
4/01	2ND READING CONCURRED	96 3
4/01	3RD READING CONCURRED	97 2

RETURNED TO SENATE
 4/08 SIGNED BY PRESIDENT
 4/09 SIGNED BY SPEAKER

4/10 TRANSMITTED TO GOVERNOR
 4/12 SIGNED BY GOVERNOR
 CHAPTER NUMBER 464 EFFECTIVE DATE: 7/01/85

SB 248 INTRODUCED BY FARRELL
 LICENSING BOARDS TO MEET TWICE A YEAR
 BY REQUEST OF DEPARTMENT OF COMMERCE

1/25 INTRODUCED		
1/25	REFERRED TO STATE ADMINISTRATION	
1/28	FISCAL NOTE REQUESTED	
2/01	FISCAL NOTE RECEIVED	
2/13	HEARING	
2/14	COMMITTEE REPORT-BILL PASS AS AMENDED	
2/16	2ND READING INDEFINITELY POSTPONED	37 7

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454		747 Phillips	An act amending section 61-5-104, MCA, to extend the exemption from the requirement to possess a Montana driver's license to certain persons associated with the armed forces of the United States. Page 858
455		818 Patterson	An act authorizing a county to contribute money from the mill levy for the support of museums to public museums not owned by the county; amending sections 7-16-2202 and 7-16-2205, MCA; and providing an effective date. Page 859
456		858 Harrington	An act to establish local and regional port authorities; to provide for a tax levy for the operation thereof; to provide for port commissioners; to provide for the general power of a port authority; to provide for issuance of bonds and for establishment of operation and use privileges; to provide for rules in connection with a port authority; to provide for acceptance of federal aid for ports; and to provide for county and municipal cooperation in regard to port operation; amending section 67-10-402, MCA. Page 860
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465	184	Schye	An act to allow cash payment for bingo prizes; amending section 23-5-412, MCA. Page 884
466	135	Mohar	An act to eliminate the requirement that the Board of Examiners approve change orders concerning the construction of buildings; amending section 18-2-103, MCA; and providing an immediate effective date. Page 894

SENATE BILL NO. 247

INTRODUCED BY DANIELS

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

IN THE SENATE

January 25, 1985	Introduced and referred to Committee on State Administration.
January 28, 1985	Fiscal Note requested.
January 31, 1985	Fiscal Note returned.
February 15, 1985	Committee recommend bill do pass as amended. Report adopted.
February 16, 1985	Bill printed and placed on members' desks.
February 18, 1985	Motion pass consideration.
February 19, 1985	Second reading, do pass.
February 20, 1985	Considered correctly engrossed.
February 21, 1985	Third reading, passed. Ayes, 45; Noes, 2.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on State Administration.
March 20, 1985	Committee recommend bill be concurred in. Report adopted.

March 23, 1985

Second reading, concurred in.

On motion, taken from third reading and rereferred to Committee on Appropriations.

April 1, 1985

Committee recommend bill be concurred in. Report adopted.

Second reading, concurred in.

Third reading, concurred in.

Returned to Senate.

IN THE SENATE

April 1, 1985

Received from House.

April 2, 1985

Sent to enrolling.

Reported correctly enrolled.

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Senate BILL NO. 247

INTRODUCED BY *Smith*

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PUBLIC EMPLOYER TO PICK UP A MEMBER'S CONTRIBUTIONS UNDER THE PUBLIC EMPLOYEES', TEACHERS', HIGHWAY PATROLMEN'S, SHERIFFS', STATE GAME WARDENS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REQUIRING THE EMPLOYER TO DEDUCT FROM THE MEMBER'S COMPENSATION AN AMOUNT EQUAL TO THE AMOUNT OF THE MEMBER'S CONTRIBUTIONS PICKED UP BY THE EMPLOYER; REQUIRING A MEMBER TO PAY STATE AND LOCAL TAXES ON A REFUND OF HIS CONTRIBUTIONS; AMENDING SECTIONS 15-30-111, 15-30-136, 19-3-105, 19-3-701, 19-4-101, 19-4-208, 19-4-602, 19-4-706, 19-4-707, 19-6-402, 19-6-705, 19-7-403, 19-7-705, 19-8-502, 19-8-805, 19-9-601, 19-9-1005, 19-13-601, AND 19-13-1003, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or

1 amended and in addition shall include the following:

2 (a) interest received on obligations of another state

3 or territory or county, municipality, district, or other

4 political subdivision thereof;

5 (b) refunds received of federal income tax, to the

6 extent the deduction of such tax resulted in a reduction of

7 Montana income tax liability.

8 (2) Notwithstanding the provisions of the federal

9 Internal Revenue Code of 1954 as labeled or amended,

10 adjusted gross income does not include the following which

11 are exempt from taxation under this chapter:

12 (a) all interest income from obligations of the United

13 States government, the state of Montana, county,

14 municipality, district, or other political subdivision

15 thereof;

16 (b) interest income earned by a taxpayer age 65 or

17 older in a taxable year up to and including \$800 for a

18 taxpayer filing a separate return and \$1,600 for each joint

19 return;

20 (c) all benefits received under the Federal Employees'

21 Retirement Act not in excess of \$3,600;

22 (d) all benefits, not in excess of \$360, received as

23 an annuity, pension, or endowment under any private or

24 corporate retirement plan or system;

25 (e) all benefits paid under the teachers' retirement

1 law which are specified as exempt from taxation by 19-4-706;

2 (f) all benefits paid under The Public Employees'
3 Retirement System Act which are specified as exempt from
4 taxation by 19-3-105;

5 (g) all benefits paid under the highway patrol
6 retirement law which are specified as exempt from taxation
7 by 19-6-705;

8 (h) all Montana income tax refunds or credits thereof;

9 (i) all benefits paid under 19-11-602, 19-11-604, and
10 19-11-605 to retired and disabled firefighters, their
11 surviving spouses and orphans;

12 (j) all benefits paid ~~by first--or-second-class cities~~
13 ~~for under the policemen's municipal police officers'~~
14 ~~retirement system provided for by Title 19, chapter--9 that~~
15 ~~are specified as exempt from taxation by 19-9-1005;~~

16 (k) gain required to be recognized by a liquidating
17 corporation under 15-31-113(1)(a)(ii);

18 (l) all tips covered by section 3402(k) of the
19 Internal Revenue Code of 1954, as amended and applicable on
20 January 1, 1983, received by persons for services rendered
21 by them to patrons of premises licensed to provide food,
22 beverage, or lodging.

23 (3) In the case of a shareholder of a corporation with
24 respect to which the election provided for under subchapter
25 S. of the Internal Revenue Code of 1954, as amended, is in

1 effect but with respect to which the election provided for
2 under 15-31-202, as amended, is not in effect, adjusted
3 gross income does not include any part of the corporation's
4 undistributed taxable income, net operating loss, capital
5 gains or other gains, profits, or losses required to be
6 included in the shareholder's federal income tax adjusted
7 gross income by reason of the said election under subchapter
8 S. However, the shareholder's adjusted gross income shall
9 include actual distributions from the corporation to the
10 extent they would be treated as taxable dividends if the
11 subchapter S. election were not in effect.

12 (4) A shareholder of a DISC that is exempt from the
13 corporation license tax under 15-31-102(1)(1) shall include
14 in his adjusted gross income the earnings and profits of the
15 DISC in the same manner as provided by federal law (section
16 995, Internal Revenue Code) for all periods for which the
17 DISC election is effective.

18 (5) A taxpayer who, in determining federal adjusted
19 gross income, has reduced his business deductions by an
20 amount for wages and salaries for which a federal tax credit
21 was elected under section 44B of the Internal Revenue Code
22 of 1954 or as that section may be labeled or amended is
23 allowed to deduct the amount of such wages and salaries paid
24 regardless of the credit taken. The deduction must be made
25 in the year the wages and salaries were used to compute the

credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation."

Section 2. Section 15-30-136, MCA, is amended to read:

"15-30-136. Computation of income of estates or trusts -- exemption. (1) Except as otherwise provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in the taxable year, including but not limited to the following items:

(a) dividends;

(b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other political subdivision thereof, but excluding interest income from obligations of:

(i) the United States government or the state of Montana;

(ii) a school district; or

(iii) a county, municipality, district, or other political subdivision of the state;

(c) income from partnerships and other fiduciaries;

(d) gross rents and royalties;

(e) gain from sale or exchange of property, including those gains that are excluded from gross income for federal

fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954, as amended;

(f) gross profit from trade or business; and

(g) refunds recovered on federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) In computing net income, there are allowed as deductions:

(a) interest expenses deductible for federal tax purposes according to section 163 of the Internal Revenue Code of 1954, as amended;

(b) taxes paid or accrued within the taxable year, including but not limited to federal income tax, but excluding Montana income tax;

(c) that fiduciary's portion of depreciation or depletion which is deductible for federal tax purposes according to sections 167, 611, and 642 of the Internal Revenue Code of 1954, as amended;

(d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of the Internal Revenue Code of 1954, as amended;

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended, if such expenses were not claimed as a deduction in the determination of

1 Montana inheritance tax;

2 (f) losses from fire, storm, shipwreck, or other
3 casualty or from theft, to the extent not compensated for by
4 insurance or otherwise, that are deductible for federal tax
5 purposes according to section 165 of the Internal Revenue
6 Code of 1954, as amended;

7 (g) net operating loss deductions allowed for federal
8 income tax under section 642(d) of the Internal Revenue Code
9 of 1954, as amended, except estates may not claim losses
10 that are deductible on the decedent's final return;

11 (h) all benefits received as federal employees'
12 retirement not in excess of \$3,600;

13 (i) all benefits paid under the Montana teachers'
14 retirement system that are specified as exempt from taxation
15 by 19-4-706;

16 (j) all benefits paid under the Montana Public
17 Employees' Retirement System Act that are specified as
18 exempt from taxation by 19-3-105;

19 (k) all benefits paid under the Montana highway
20 patrolmen's retirement system that are specified as exempt
21 from taxation by 19-6-705;

22 (l) Montana income tax refunds or credits thereof;

23 (m) all benefits paid under 19-11-602, 19-11-604, and
24 19-11-605 to retired and disabled firemen or their surviving
25 spouses or children;

1 (n) all benefits paid ~~by first--or-second-class-cities~~
2 ~~for under~~ the Montana municipal police officers' retirement
3 ~~system provided-for-by-the-metropolitan-police-law that are~~
4 specified as exempt from taxation by 19-9-1005;

5 (o) all benefits not in excess of \$360 received as an
6 annuity, pension, or endowment under private or corporate
7 retirement plans or systems.

8 (3) In the case of a shareholder of a corporation with
9 respect to which the election provided for under subchapter
10 S. of the Internal Revenue Code of 1954, as amended, is in
11 effect but with respect to which the election provided for
12 under 15-31-202 is not in effect, net income does not
13 include any part of the corporation's undistributed taxable
14 income, net operating loss, capital gains or other gains,
15 profits, or losses required to be included in the
16 shareholder's federal income tax net income by reason of the
17 election under subchapter S. However, the shareholder's net
18 income shall include actual distribution from the
19 corporation to the extent it would be treated as taxable
20 dividends if the subchapter S. election were not in effect.

21 (4) The following additional deductions shall be
22 allowed in deriving taxable income of estates and trusts:

23 (a) any amount of income for the taxable year
24 currently required to be distributed to beneficiaries for
25 such year;

1 (b) any other amounts properly paid or credited or
2 required to be distributed for the taxable year;

3 (c) the amount of 50% of the excess of the net
4 long-term capital gain over the net short-term capital loss
5 for the taxable year.

6 (5) The exemption allowed for estates and trusts is
7 that exemption provided in 15-30-112(2)(a) and
8 15-30-112(8)."

9 Section 3. Section 19-3-105, MCA, is amended to read:

10 "19-3-105. Exemption from taxes and legal process. The
11 right of a person to a retirement allowance or any other
12 benefit under this chapter and the moneys in the fund
13 created under this chapter ~~shall~~ is not be:

14 (1) subject to execution, garnishment, attachment,
15 ~~state-or-municipal-taxes,~~ or any other process;

16 (2) subject to state, county, or municipal taxes
17 except for a refund paid under 19-3-703 of a member's
18 contributions picked up by an employer after June 30, 1985,
19 as provided in 19-3-701; or

20 (3) ~~whatsoever--and--shall--be-unassignable~~ assignable
21 except as in this chapter specifically provided."

22 Section 4. Section 19-3-701, MCA, is amended to read:

23 "19-3-701. Member's contribution to be deducted.

24 (1) The normal contribution of each member ~~shall--be--equal~~
25 to is 6% of his compensation. ~~The-chief-administrative~~

1 ~~officer-of-each-employer-shall-deduct-the-contribution--from~~
2 ~~the--compensation--of-each-member-and-remit-the-total-of-the~~
3 ~~contributions-to-the-board.~~ Payment of salaries or wages
4 less the contribution shall be full and complete discharge
5 and acquittance of all claims and demands whatsoever for the
6 service rendered by members during the period covered by the
7 payment, except their claims to the benefits to which they
8 may be entitled under the provisions of this chapter.

9 (2) Each employer, pursuant to section 414(h)(2) of
10 the federal Internal Revenue Code of 1954, as amended and
11 applicable on July 1, 1985, shall pick up and pay the
12 contributions which would be payable by the member under
13 subsection (1) for service rendered after June 30, 1985.

14 (3) The member's contributions picked up by the
15 employer must be designated for all purposes of the
16 retirement system as the member's contributions, except for
17 the determination of a tax upon a distribution from the
18 retirement system. These contributions must become part of
19 the member's accumulated contributions but must be accounted
20 for separately from those previously accumulated.

21 (4) The member's contributions picked up by the
22 employer must be payable from the same source as is used to
23 pay compensation to the member and must be included in the
24 member's wages as defined in 19-1-102 and his compensation
25 as defined in 19-3-104. The employer shall deduct from the

1 member's compensation an amount equal to the amount of the
 2 member's contributions picked up by the employer and remit
 3 the total of the contributions to the board."

4 Section 5. Section 19-4-208, MCA, is amended to read:

5 "19-4-208. Duties of employer. Each employer shall:

6 (1) deduct pick up the contribution of each member
 7 employed by him at the rate prescribed by 19-4-602 ~~from each~~
 8 ~~salary--payment--for--each--payroll--period~~ and transmit the
 9 contribution each month to the secretary of the retirement
 10 board;

11 (2) pay to the secretary of the retirement board the
 12 employer's contribution prescribed by 19-4-605, at the time
 13 that the employee contributions are transmitted to the
 14 secretary;

15 (3) keep records and, as required by the retirement
 16 board, furnish information to the board that is required in
 17 the discharge of the board's duties;

18 (4) upon the employment of a person who is required to
 19 become a member of the retirement system, inform him of his
 20 rights and obligations relating to the retirement system;

21 (5) at the request of the retirement board, certify
 22 the names of all persons who are eligible for membership or
 23 who are members of the retirement system; and

24 (6) notify the retirement board of the employment of a
 25 person eligible for membership and forward his membership

1 application to the board."

2 Section 6. Section 19-4-101, MCA, is amended to read:

3 "19-4-101. Definitions. As used in this chapter,
 4 unless the context clearly indicates otherwise, the
 5 following definitions apply:

6 (1) "Accumulated contributions" means the sum of all
 7 the amounts deducted from the compensation of a member or
 8 paid by a member and credited to his individual account in
 9 the annuity savings fund, together with interest. Regular
 10 interest shall be computed and allowed to provide a benefit
 11 at the time of retirement.

12 (2) "Actuarial equivalent" means a benefit of equal
 13 value when computed, with regular interest, on the basis of
 14 the mortality tables adopted by the retirement board.

15 (3) "Annuity" means the payments made to a beneficiary
 16 for life which are derived from a member's accumulated
 17 contributions.

18 (4) "Annuity reserve" means the present value of all
 19 payments to be made on account of a member's annuity
 20 computed, with regular interest, on the basis of the
 21 mortality tables adopted by the retirement board.

22 (5) (a) "Average final compensation" means the average
 23 of the earned compensation of a member during the 3
 24 consecutive years of full-time service which yield the
 25 highest average and on which contributions have been made as

1 required by 19-4-602{++}. If the earned compensation includes
 2 any termination pay, the member shall select one of the
 3 following options:

4 (i) use the total termination pay in the calculation
 5 of the average final compensation. The member and the
 6 employer shall pay such contributions to the retirement
 7 system as are determined by the board to adequately
 8 compensate the system for the additional retirement benefit.
 9 The contributions must be made at the time the termination
 10 pay is received.

11 (ii) use a yearly amount of termination pay added to
 12 each of the 3 consecutive years' salary used in the
 13 calculation of the average final compensation. The amount of
 14 such compensation used in the calculation of average final
 15 compensation must be divided by the total number of years of
 16 creditable service with the employer from whom this type of
 17 compensation was received to determine a yearly amount. The
 18 member and the employer must pay the regular contribution on
 19 the termination pay; or

20 (iii) exclude the termination pay from the average
 21 final compensation. No contribution is required of either
 22 the employer or member.

23 (b) For purposes of this subsection, termination pay
 24 includes any form of termination pay or any lump-sum payment
 25 for deferred compensation, sick leave, or accumulated

1 vacation credit, or any other payment for time not worked
 2 other than compensation received while on sick leave or
 3 authorized leave of absence.

4 (6) "Beneficiary" means a person in receipt of a
 5 pension, annuity, retirement allowance, or other benefit
 6 provided by the retirement system.

7 (7) "Creditable service" is that service defined by
 8 19-4-401.

9 (8) "Earned compensation" means the full compensation,
 10 pay, or salary actually paid to a member and reported to the
 11 retirement system, including amounts paid under a salary
 12 reduction agreement to a tax sheltered annuity or deferred
 13 compensation program and the value of any housing provided
 14 by the employer. The employer shall fix the value of any
 15 housing provided. The term does not include any other
 16 amounts paid in kind or fringe benefits not actually paid to
 17 a member. The earned compensation of a member who had less
 18 than 3 consecutive years of full-time service during the 5
 19 years preceding his retirement is the compensation, pay, or
 20 salary which he would have earned had his part-time service
 21 been full-time service. The earned compensation of a member
 22 who is awarded a disability retirement allowance prior to
 23 the completion of a full year is the compensation, pay, or
 24 salary which he would have received had he completed the
 25 full year, except that any termination pay, as defined in

subsection (5)(b), received by the member is limited to the amount actually paid and is not the amount he would have earned had he completed the full year.

(9) "Employer" means the state of Montana, the trustees of a district, or any other agency or subdivision of the state which employs a person who is designated a member of the retirement system.

(10) "Full-time service" means service which is full-time and which extends over a normal academic year of at least 9 months. With respect to those members employed by the office of the superintendent of public instruction, any other state agency or institution, or the office of a county superintendent, "full-time service" means service which is full-time and which totals at least 9 months in any one year.

(11) "Member" means a person who has an individual account in the annuity savings fund. An active member is a person included under the provisions of 19-4-302. An inactive member is a person included under the provisions of 19-4-303.

(12) "Part-time service" means service which is less than full-time or which totals less than 9 months in any one year. Part-time service shall be credited in the proportion that the actual time worked bears to full-time service.

(13) "Pension" means the payments made to a beneficiary

for life which are paid out of the pension accumulation fund.

(14) "Pension reserve" means the present value of all payments to be made on account of a pension computed, with regular interest, on the basis of the mortality tables adopted by the retirement board.

(15) "Prior service" means employment of the same nature as service defined in subsection (20) of this section but rendered before September 1, 1937.

(16) "Regular interest" means interest at 4% per annum compounded annually or at such other rate as may be set by the retirement board in accordance with 19-4-501(2).

(17) "Retirement allowance" means the annuity plus the pension.

(18) "Retirement board" means the retirement system's governing board provided for in 2-15-1010.

(19) "Retirement system" means the teachers' retirement system of the state of Montana provided for in 19-4-102.

(20) "Service" means the performance of such instructional duties or related activities as would entitle the person to active membership in the retirement system under the provisions of 19-4-302."

Section 7. Section 19-4-602, MCA, is amended to read:

"19-4-602. Annuity savings fund -- member's contribution. The annuity savings fund is a fund in which

17 September 2003

Pages 17, 18, 19, and 20 of Senate Bill 247 (Introduced) are missing from the Law Library's bound volume, it appears due to a mistake in original printing. You can contact the Historical Society Library and Archives at 444-2681 to inquire if their copy includes them.

subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages as defined in 19-1-102 and his compensation as used to define his final salary in 19-6-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 11. Section 19-6-705, MCA, is amended to read:

"19-6-705. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these shall be is:

(1) exempt from any state, county, or municipal tax and except for a refund paid under 19-6-403 of a member's contributions picked up by an employer after June 30, 1985,

as provided in 19-6-402;

(2) exempt from levy, sale, garnishment, attachment, or any other process; whatsoever and

(3) shall--be unassignable except as specifically provided in 19-6-706."

Section 12. Section 19-7-403, MCA, is amended to read:

"19-7-403. Members' contributions deducted. (1) Every member shall be required to contribute into the account 7% of his monthly salary, which shall be deducted--from--his salary--and deposited to his credit in the account.

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions which would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the

member's wages as defined in 19-1-102 and his salary as used to define his final salary in 19-7-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 13. Section 19-7-705, MCA, is amended to read:

"19-7-705. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these ~~shall be~~ is:

(1) exempt from any state, county, or municipal tax and except for a refund paid under 19-7-304(1) of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-7-403;

(2) exempt from levy, sale, garnishment, attachment, or any other process; whatsoever and

(3) ~~shall---be~~ unassignable except as specifically provided in 19-7-706."

Section 14. Section 19-8-502, MCA, is amended to read:

"19-8-502. Member's contribution. (1) Every member is required to contribute into the account a sum equal to 7% of his monthly salary, which sum shall be ~~deducted--from--his salary--and~~ deposited to his credit in the account.

(2) Each employer, pursuant to section 414(h)(2) of

the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions which would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages as defined in 19-1-102 and his compensation as used to define his final salary in 19-8-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 15. Section 19-8-805, MCA, is amended to read:

"19-8-805. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these ~~shall be~~ is:

(1) exempt from any state, county, or municipal tax and except for a refund paid under 19-8-503 of the member's contributions picked up by an employer after June 30, 1985, as provided in 19-8-502;

(2) exempt from levy, sale, garnishment, attachment, or any other process; whatsoever and

(3) shall be unassignable except as specifically provided in 19-8-806."

Section 16. Section 19-9-601, MCA, is amended to read:

"19-9-601. Member contributions. (1) ~~The treasurer or other appropriate official of each employer shall retain from the monthly compensation~~ The normal contribution of each active member ~~a sum equal to~~ is 6% of his monthly compensation or, in the case of a member first employed by an employer as a police officer after June 30, 1979, 7 1/2% of his monthly compensation, excluding overtime, holiday payments, shift differential payments, compensation time payments, and payments in lieu of sick leave and annual leave, for his services as a police officer. ~~The monthly deduction from the salaries of police officers shall be paid to the administrator for the purpose of paying the retirement allowances of retired police officers.~~

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the

contributions which would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages as defined in 19-1-102 and his monthly compensation as defined in 19-9-104. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 17. Section 19-9-1005, MCA, is amended to read:

"19-9-1005. Exemption from taxes. Any money received as ~~a retirement allowance~~ paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax except a refund paid under 19-9-304 of a member's contributions picked up by an employer after June

30, 1985, as provided in 19-9-601."

Section 18. Section 19-13-601, MCA, is amended to read:

"19-13-601. Member contributions. (1) Each employer shall retain from the monthly compensation of each active member ~~a sum equal to 7% of his monthly compensation for his services--as--a--firefighter--and--shall--report~~ and remit on a monthly basis:

~~(a) 6% of the monthly compensation of each member to the administrator for deposit in the fund; and~~

~~(b) 1% of the monthly compensation of each member to the Montana state firemen's association for the payment of premiums on a group life and accidental death and dismemberment insurance policy for members and to defray expenses incurred by the association when representing members of the plan.~~

(2) The normal contribution of each active member is 6% of his monthly compensation.

~~(2)(3)~~ If a member receives compensation under the provisions of the Workers' Compensation Act, Title 39, chapter 71, the amount received must be included as part of his monthly compensation for purposes of determining contributions and service credits under the retirement system. Contributions made under this section, 19-13-604, and 19-13-605 must be based on the total compensation

received by the member from his employer and from the workers' compensation division during the period of disability.

(4) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions which would be payable by the member under subsection (2) for service rendered after June 30, 1985.

(5) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(6) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's monthly compensation as defined in 19-13-104. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 19. Section 19-13-1003, MCA, is amended to read:

1 "19-13-1003. Exemption from taxes. Any money received
2 ~~as-a--retirement--allowance~~ paid in accordance with the
3 provisions of this chapter is exempt from any state, county,
4 or municipal tax except refunds paid under 19-13-602 of a
5 member's contributions picked up by an employer after June
6 30, 1985, as provided in 19-13-601."

7 NEW SECTION. Section 20. Extension of authority. Any
8 existing authority of the public employees' retirement board
9 or the teachers' retirement board to make rules on the
10 subject of the provisions of this act is extended to the
11 provisions of this act.

12 NEW SECTION. Section 21. Nonseverability. It is the
13 intent of the legislature that each part of this act is
14 essentially dependent upon every other part and if one part
15 is held unconstitutional or invalid, all other parts are
16 invalid.

17 NEW SECTION. Section 22. Effective date. This act is
18 effective July 1, 1985.

-End-

In compliance with a written request received January 28, 19 85, there is hereby submitted a Fiscal Note for S.B. 247 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring a public employer to pick up a member's contributions under the public employees', teachers', highway patrolmen's, sheriffs', state game wardens', municipal police officers', and firefighters' unified retirement systems; requiring the employer to deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer; requiring a member to pay state and local taxes on a refund of his contributions; and providing an effective date.

ASSUMPTIONS:

1. Individual income tax revenue is \$196,157,813 in FY 1986 and \$209,890,625 in FY 1987 under current law (OBPP).
2. Total public employee retirement contributions are \$53,349,329 in FY 1986 and \$56,172,008 in FY 1987.
3. Total refunds from PERS are \$15,258,782 in FY 1986 and \$17,684,927 in FY 1987.
4. The average effective individual income tax rate remains constant at the 1983 level of 5.39%.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 31, 1985

SB 247

FISCAL IMPACT:

	<u>Under</u> <u>Current Law</u>	<u>FY 86</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY 87</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>
<u>EFFECT ON REVENUE</u>						
Individual Income Tax	\$196,157,813	\$194,104,733	(\$2,053,080)	\$209,890,625	\$207,816,171	(\$2,074,454)
Totals	\$196,157,813	\$194,104,733	(\$2,053,080)	\$209,890,625	\$207,816,171	(\$2,074,454)

The loss of revenue to the general fund has been assumed in the OBPP revenue estimates. Passage of S.B. 247 would not alter that estimate.

FUND INFORMATION:

General Fund	\$125,541,000	\$124,227,029	(\$1,313,971)	\$134,330,000	\$133,002,349	(\$1,327,651)
Earmarked Special Revenue						
Fund (Foundation Program)	\$ 49,039,453	48,526,183	(\$ 513,270)	\$ 52,472,656	\$ 51,954,043	(\$ 518,613)
Capital Project Fund	\$ 21,577,360	\$ 21,351,521	(\$ 225,839)	\$ 23,087,969	\$ 22,859,779	(\$ 228,190)

LONG-RANGE EFFECTS:

The estimated revenue losses would continue into future years as the proposed legislation provides for taxing refunds withdrawn from PERS rather than taxing contributions to PERS.

AFFECT ON COUNTY AND OTHER LOCAL REVENUE OR EXPENDITURES:

There is no effect on local government or school revenues. Because the bill applies to city, county and school district retirements, those employees would also receive an effective increase in take home pay.

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commissioners think of it? Senator Towe said they did not object to it. Mr. Giblin said that they did a study of this program and the county commissioners did not object to it. Senator Haffey asked if this in anyway affected the fact that the legislature last year wanted to be sure it did not get into the banking business. Senator Towe said that it did not. It simply affects the people they forgot about last year, the ones that don't need their protection, but would like the state to act on behalf of the counties.

Senator Towe closed by saying that we tried so hard to make sure that everyone was credit worthy, that we forgot about person who does not want our protection. SENATE BILL 251 is closed.

EXECUTIVE ACTION ON SENATE BILL 251: Senator Conover made a motion that SENATE BILL 251 do pass. Question was called by Senator Harding and the Committee voted unanimously that SENATE BILL 251 DO PASS.

CONSIDERATION OF SENATE BILL 247: Senator Daniels, Senate District 24, is the sponsor of this bill entitled, "AN ACT REQUIRING A PUBLIC EMPLOYER TO PICK UP A MEMBER'S CONTRIBUTIONS UNDER THE PUBLIC EMPLOYEES', TEACHERS', HIGHWAY PATROLMEN'S, SHERIFFS', STATE GAME WARDENS', MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REQUIRING THE EMPLOYER TO DEDUCT FROM THE MEMBER'S COMPENSATION AN AMOUNT EQUAL TO THE AMOUNT OF THE MEMBER'S CONTRIBUTIONS PICKED UP BY THE EMPLOYER; REQUIRING A MEMBER TO PAY STATE AND LOCAL TAXES ON A REFUND OF HIS CONTRIBUTIONS; AMENDING SECTIONS ..., AND ..., MCA; AND PROVIDING AN EFFECTIVE DATE." Senator Daniels says that this is a very technical bill and it comes about because of the Internal Revenue Service codes. This will allow the employer in this instance to pick-up the employee's contributions, which will permit PERS and other retirement plans, with the exception of judges who asked to be excused, to increase their take-home pay. This bill allows the employer to take the retirement out before tax dollars rather than after tax dollars, making the employee's gross receipts less, so their taxable value is less, and that makes their take-home pay more. For example, if an employee made \$1,000, the state would take out the employee's PERS, which would bring the amount down to \$940.00. Therefore, their federal and state taxes are based on the \$940.00 figure. Ellen Feaver will be able to explain this in more detail for you.

PROPOSERS: Ellen Feaver, Director of Department of Administration said that this bill would affect all public employees in the state except the judges. No single individual can choose to opt out. She showed a chart showing how it will affect a Grade 8, a Grade 11, and a Grade 16. At the Grade

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8 level, take home pay will go up annually \$182.00 for a single person and \$130.00 for a married person. Ms. Feaver said that school foundation programs will be impacted by about \$1½ million, but this has been budgeted in the executive budget to benefit state employees. The employee does not pay taxes on this money now, but will pay on this money at retirement, when he/she will be in a lower tax bracket, or it can be rolled over into an I.R.A. if the person withdraws early.

Larry Nachtsheim, Administrator for the Public Employees Retirement system supports this bill. He felt Ellen Feaver had done a good job of explaining the program.

Bob Johnson, Teachers Retirement System, supports this bill. Mr. Johnson said they have this throughout the country and he feels they should have it here.

Tom Schneider, Montana Public Employees Retirement System, supports this bill. He was one of the people who have worked for over two years to bring this to Montana. The only other person who might be hurt by this plan is the person in the higher income tax bracket.

Nadlean Jensen, Council #9 of State and County Employees, supports this bill.

Mary Lou Garrett, Interdepartmental Coordinating Committee for Women, supports this bill. The ICCW endorses this bill as it sets a uniform contribution for members of retirement systems and provides a means of increased take home pay in a time of restricted budgets and continued inflation.

Eric Feaver, Montana Education Association, supports this bill.

Chuck O'Reilly, Lewis and Clark County Sheriff, and President of Montana Peace Officers Association, supports this bill.

Paul Kindt, Local 971, Boulder, supports this bill. He said this bill was in agreement with their contract.

Bill Verwolf, City of Helena, supports this bill.

OPPONENTS: Mike Walker, Montana State Firemen's Association, does not support this bill. His group would like to be eliminated as the judges are. He asked that the bill be amended. Senator Haffey turned this over to Valencia to take care of.

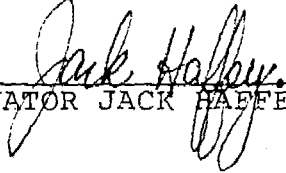
COMMITTEE QUESTIONS: Senator Tveit was upset with the impact on the school foundation programs, but Ellen Feaver explained that this was budgeted for in the executive budget. Senator Manning asked if this means less money in the state coffers.

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Ms. Feaver said that it would be about \$2 million less for the year, but this too has been budgeted for in the executive budget.

In closing, Ellen Feaver said that the employee's payments will remain the same on their retirement plans. SENATE BILL 247 is closed. Senator Haffey asked Valencia Lane, staff Attorney to make the amendments necessary to delete the Firemen's Fund.

The meeting was adjourned at 12:01 p.m.



SENATOR JACK HAFFEY, CHAIRMAN

COMMITTEE ON

DATE

February 12, 1985

State Administration

VISITORS' REGISTER

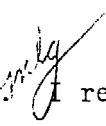
NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Don BREIBY	PUBLICATIONS + GRAPHICS	SB207		X
Paul Dunbar	MT Univ. System	SB207		X
Ol Madison	U of Montana	SB207		X
Ken Woosley	Eastern Montana College	SB207		X
Nadjean Jensen	AFSCME	SB247	X	
Tom Schneider	MPRA	SB247	X	
Dee Harris	MEDB	251	X	
Mike Walker	MT ST FIREMANS ASSOC.	SB247		
Michael Hurl	" " " "	SB247		
Louis Nachtsheim	PERP	SB247	X	
Bruce Parker	Montana State Univ.	SB207		X
Mahmud Al-Hamdi	—	"		
Ken Michelson	Montana H U	SB207		
Nels Hurdley	—	SB207		
Elk Feaver	Dept of Adm	SB247	X	
Guage Morgan	Printer printing	SB207	X	
Steve Hunter	C C	SB207	X	
Robert Johnson	Teachers' Retirement	SB247	X	
Paul Knecht	AFSCME LOCAL 971	SB247	X	
George Allen	MR Retail Bsm	SB207	X	
P. Hunsford	MT Hist Soc	SB207		X
William L. ...	MT H. Public Admin. Serv	SB207		X
Bud Schuler	Falcon Press	207	X	
Bill Gosden	MT DO H/hump	207		X
Riley Johnson	NFIB	207	X	
Leanne Schenauwer	MT Ass Clerks Assn	SB247	X	

(Please leave prepared statement with Secretary)

TESTIMONY

S.B. 247

STATE ADMINISTRATION

My name is Mary Lou Garrett.  I represent the Interdepartmental Coordinating Committee for Women, known as the ICCW.

The ICCW endorses S.B. 247 as it sets a uniform contribution for members of retirement systems and provides a means of increased take home pay in a time of restricted budgets and continued inflation.

With information provided by the Department of Administration and previous proponents, the ICCW agrees with the prior testimony and asks your support in passing S.B. 247 .

Exhibit 15
SB-247
2-12-85

SENATE BILL 247
"Pick Up and Pay"

1. What is the "pick up and pay" concept?

"Pick up and pay" is basically a deferred income plan which permits the employer to pay the 6% employee contribution to the retirement system with before tax dollars. Currently, public employees pay federal and state tax on their PERS contributions at the time the contributions are made.

2. What is the benefit to the employees?

In effect, this change will increase the employee take home pay by the amount of tax liability the employee currently incurs on his 6% PERS contribution. Typically this change will provide a 1.5 to 2.5% increase to the average employee, depending on the individual's income tax rate.

3. Who is covered under this proposal?

All state, local and school employees, except members of the Judges' Retirement System (who requested that they not be included), and six locally administered police retirement systems.

4. Will employees have any choice on whether or not they participate?

No, under the Internal Revenue Code 414(h)(2), all members of any given retirement system must be covered under the pick up to prevent discrimination.

5. What will be the immediate impact on employees?

Under our examples, a married employee with 4 exemptions making \$27,000 would take home approximately \$442 more per year. A married employee with 4 exemptions making \$18,000 would take home approximately \$208 more per year. A married employee with 4 exemptions making \$14,000 would take home approximately \$130 more per year.

6. Is this in effect a pay raise?

No. Employees will simply be deferring payment of federal and state taxes on a portion of their income. However, most public employees on retirement have a lesser taxable income than they did while they were employed and, therefore, should pay less taxes on these contributions.

7. What benefit is this to state and local government?

Public employers can increase the take home pay of their employees without increasing their payroll costs because gross salary is not effected.

8. Are other states doing this?

Yes, currently about 20 other states have adopted the "pick up and pay" concept.

9. What effect will this have on current retirees?

None. This proposal will only apply to contributions on salaries earned after July 1, 1985.

10. What effect will this have on future retirees?

Employees retiring after July 1, 1985, will not have to pay taxes on the contributions on which they've already paid taxes prior to July 1, 1985. Once employee contributions have been recovered, however, the retiree, as usual, will pay federal taxes on benefits. Retirees will never pay state taxes on these amounts.

11. What is the tax liability of an employee who terminates his employment and withdraws his contributions in a lump sum?

The bill does not change the current tax liability for refunds, except for those contributions paid after July 1, 1985, upon which no taxes have been paid.

12. Can an employee avoid or reduce taxes upon termination and withdrawal?

Yes. Under current tax regulations, the taxable portion of such lump sum payments may be rolled over into IRA's or available income tax averaging used for further deferrals.

13. What is the effect on local government and school revenues?

None. *to local government. School foundation revenue is decreased about \$500,000 per year.*

14. Will this effect collective bargaining agreements?

No. Retirement benefits are not a negotiated item.

15. Will this effect social security or retirement benefits?

No. This plan does not effect the employee base salary for calculation of social security or retirement benefits.

16. How will the retirement systems keep straight which contributions have been taxed and which haven't?

By simply freezing the present contributions at July 1, 1985, through their computer system and accounting for future contributions separately.

17. How will a person know the amount of payment that is taxable upon withdrawal or retirement?

In the case where an employee takes a lump sum payment, the retirement system sends out a 1099 form showing the breakout of the taxable portion.

At the time an employee retires, the retirement system provides the necessary information to complete the tax forms. Thereafter, at the end of each year, the system provides a W-2P form which shows the amount of benefits received within the calendar year.

18. Will PERS withhold more taxes on taxable amounts?

Yes. Currently the retirement system withholds federal income tax on all benefit payments based on the federal withholding schedule or any amount that a retiree would request.

19. How would the proposal effect regular deferred compensation plans?

This plan would reduce the compensation that may be used for deferred compensation purposes under Internal Revenue Code Section 457; however, it does not effect the IRA maximums.

Exhibit 4
SB-247
2-12-85

Grade 8, step 6

	<u>Present</u>		<u>Pick-Up</u>	
	<u>SINGLE EMPLOYEE</u>	<u>MARRIED *</u>	<u>SINGLE EMPLOYEE</u>	<u>MARRIED *</u>
GROSS	545	545	545	545
PICK-UP	<u>0</u>	<u>0</u>	<u>33</u>	<u>33</u>
TAXABLE	545	545	512	512
FICA	33	38	38	38
PERS	33	33	0	0
SIT	15	9	15	8
FIT	<u>70</u>	<u>35</u>	<u>63</u>	<u>31</u>
TAKE HOME	389	430	396	435
ANNUAL INCREASE OVER PRESENT			182	130
% INCREASE IN TAKE HOME PAY			1.80	1.15

Grade 8

* 10% of all classified employees are at grade 8, 20% are below and 70% are above.

* Spouse not working with 4 exemptions

Grade 11, step 6

	<u>Present</u>		<u>Pick-Up</u>	
	<u>SINGLE EMPLOYEE</u>	<u>MARRIED*</u>	<u>SINGLE EMPLOYEE</u>	<u>MARRIED*</u>
GROSS	680	680	680	680
PICK-UP	<u>0</u>	<u>0</u>	<u>41</u>	<u>41</u>
TAXABLE	680	680	639	639
FICA	48	48	48	48
PERS	41	41	0	0
SIT	21	14	20	12
FIT	<u>99</u>	<u>57</u>	<u>88</u>	<u>51</u>
TAKE HOME	471	520	483	528
ANNUAL INCREASE OVER PRESENT			312	208
% INCREASE IN TAKE HOME PAY			2.55	1.54

Grade 11

*9% of all classified employees are at grade 11, 46% are below and 45% are above.

*Spouse not working with 4 exemptions

Grade 16, step 6

	<u>Present</u>		<u>Pick-Up</u>	
	<u>SINGLE EMPLOYEE</u>	<u>MARRIED*</u>	<u>SINGLE EMPLOYEE</u>	<u>MARRIED*</u>
GROSS	1,029	1,029	1,029	1,029
PICK-UP	<u>0</u>	<u>0</u>	<u>62</u>	<u>62</u>
TAXABLE	1,029	1,029	967	967
FICA	73	73	73	73
PERS	62	62	0	0
SIT	39	30	35	27
FIT	<u>191</u>	<u>122</u>	<u>173</u>	<u>108</u>
TAKE HOME	664	742	686	759
ANNUAL INCREASE OVER PRESENT			572	442
% INCREASE IN TAKE HOME PAY			3.31	2.29

Grade 16

*4% of all classified employees are at grade 16, 91% are below and 5% are above.

*Spouse not working with 4 exemptions

Chip Erdmann, Montana School Boards Association, said it would stimulate the economy without costing any additional funds.

Bill Ware, Chief of Police, Helena, supported SB 247 and echoed the remarks already stated.

John Scully, representing the Sheriffs and Peace Officers' Association, supported the bill.

Bob Griffith, representing the Highway Patrolmen, urged support of SB 247.

Tom Schneider, Montana Public Employees' Association, also supported SB 247. He said the fiscal note says this is an employer pick-up and that is not true. He said if that were so there would be a cost of \$53 million. This is simply changing the statute to give that appearance. It will be the employee's money and wanted to make that clear. This will just enable them to take home more pay.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 247: Mr. Natschein, in answer to a question from Rep. Jenkins, said that currently the taxes are paid on the \$1,000 check. Under this proposal the \$60 would not be taxable at the present time and the retiree would only pay taxes on that when the benefits are received. He said it would be treated the same as a personal IRA.

Rep. Harbin asked Mr. Schneider if this had been explained to the employees that he represents. Mr. Schneider said this was a resolution that was passed unanimously and said that naturally some people would benefit a lot more than other people. He said this was taken to the membership, the vote was unanimous so they felt very comfortable saying that their Association is supporting the bill.

Rep. Nelson asked if this is used in private industry. Mr. Natschein said it was only available to public employees and private industry has other plans.

Chairman Sales asked Mrs. Feaver if it was possible to take advantage of the federal tax portion and get that \$12-14 million in the economy and change the State tax law and keep our \$2 million. Mrs. Feaver said the IRS says it has to be taxable or nontaxable. She passed out a handout to the members.
(See Exhibit #3)

Rep. Fritz asked why the firemen were eliminated. Mr. Natschein said that they ordinarily have a very short work period and when they retire they are still working fulltime. This bill is only to benefit people that retire and don't work full time elsewhere.

Mrs. Feaver said if a person's tax bracket is higher than when they went to work for the State they would not benefit but most employees are not in that situation.

There being no further questions, Sen. Daniels closed.

CONSIDERATION OF SENATE BILL NO. 313: Sen. M.K. Daniels, Senate District #24, sponsor, said it would be an amendment to the Montana constitution, Article V, Sections 2 and 14, that would provide that each county would be represented by one senator in the State Legislature. Prior to the 1972 Constitution the Legislative body had 56 senators, one from each of the 56 counties in Montana. He didn't believe that the rural areas of the state were being adequately represented and that the urban areas are overwhelming the rural areas. He read some excerpts from an opinion by Justice Warren and said the logic of the majority opinion is frustrating to anyone that tries to use common sense. He also cited several examples of small counties that have not had a senator since the 1972 Constitution. He said he felt very strongly that the rural areas should receive more representation.

PROPOSERS: Alan Eck, Montana Farm Bureau Federation, said they have felt for some time that the Senate should be made up of one member per Montana County. His prepared testimony is attached as Exhibit #4.

Rep. Loren Jenkins, District #13, wished to be shown on the record as a proponent of SB 313. He said there are some counties in the state that are not being represented and that is not right. His county, Chouteau, has not had a senator that lived in the county since the Constitutional Convention. He agreed that the House of Representatives should be according to population but in the Senate each county should be represented.

Rep. Janet Moore, District #65, also wished to be shown as a proponent to SB 313. She said it is hard to get a rural person elected.

Rep. Bud Campbell, District #48, was a proponent to the bill also.

OPPONENTS: Margaret Davis, representing the Montana League of Women Voters, said their position was not based on the constitutional rule cited by Sen. Daniels. They supported the 1972 Constitution and support a Legislature of this size. In other words, the League supports the present system.

Eric Feaver, Montana Education Association, said they believe the current system is the proper way to do business and supported the Montana Constitution.

Rep. Ray Harbin, District #53, said his county consists of 19,000 people, approximately what each Senator represents at the present. Under this plan Yellowstone County would have

that this was amended in the Senate on page 1, lines 16 and 17 to take care of this and the cost of the audit must be paid from the board's funds.

There being no further questions, Sen. Haffey closed.

The Committee then went into executive session on the bills just previously heard.

DISPOSITION OF SENATE BILL NO. 306: Rep. Cody moved that SB 306 BE CONCURRED IN, seconded by Rep. O'Connell. The motion CARRIED UNANIMOUSLY. Rep. Cody will carry the bill.

DISPOSITION OF SENATE BILL NO. 300: Rep. Phillips moved that SB 300 BE CONCURRED IN, seconded by Rep. Moore. The motion CARRIED UNANIMOUSLY.

Rep. Cody asked if they are doing this every two years now. Chairman Sales said that this would convince the feds that this is what we want and Rep. Smith said this bill would make it a statute. Rep. Phillips will carry the bill.

DISPOSITION OF SENATE BILL NO. 282: Rep. Cody moved that SB 282 BE CONCURRED IN, seconded by Rep. Phillips. The MOTION CARRIED with Rep. Fritz voting "no". Rep. Phillips agreed to carry the bill.

DISPOSITION OF SENATE BILL NO. 247: Rep. Campbell moved that SB 247 BE CONCURRED IN, seconded by Rep. Moore.

Chairman Sales said that on the fiscal note it says it would take \$1 million out of the Foundation Program even though the testimony said it would not affect the schools.

Rep. Harbin said there would be a \$2 million impact but said that the \$14 million generated back into the economy would be a good thing. He said that anyone that wants to defer taxes on their money should be able to do so. The motion CARRIED with Chairman Sales voting "no". Rep. Driscoll will carry the bill.

DISPOSITION OF SENATE BILL NO. 313: Rep. Campbell moved that SB 313 BE CONCURRED IN, seconded by Rep. Jenkins.

Rep. Pistoria mentioned that this bill has to come out of Committee. A Constitutional amendment cannot be killed in the Committee, it must go to the floor of the House.

Rep. Cody asked how this evolved in the first place, 50 Senators instead of 56. Rep. Fritz told the Committee that in 1966 the Governor told the Legislature to reapportion themselves, which they refused to do. Therefore, it was a court order that the Senate be apportioned by population. Rep. Fritz also said that this bill is totally unconstitutional.

STANDING COMMITTEE REPORT

March 20

19 25

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 247

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EMPLOYER PICK-UP OF EMPLOYEE CONTRIBUTIONS TO PUBLIC RETIREMENT SYSTEMS

Respectfully report as follows: That Senate Bill No. 247

BE CONCURRED IN

~~DO PASS~~

SB-247
3/20/85

Senate Bill No. 247 - Employer Pick-Up

Senate Bill 247, covers every state administered retirement system except judges and firefighters and includes PERS employees, teachers, game wardens, highway patrolmen, sheriffs, and police officers.

The fiscal note shows a decrease in tax revenues to the state in 1986 and 1987 of just over \$2 million. The fiscal note, by its nature, does not show the increase in spendable income to Montana public employees. The ratio used by the Department of Revenue in calculating federal income tax, state income tax is 5:1.

This means that Montana economy will receive a transfusion of over \$12 million per year in this biennium and more each succeeding year. This could be favorably compared to "up front revenue sharing" for 40,000 public employees at all levels of government; state, city, county, and school districts. It will provide the Montana market place with six times the seed money provided by the state.

There are some offsets to the loss of revenue:

- (1) A portion of the loss of revenue will be recovered due to lower federal income tax deductions on state tax returns.
- (2) Taxes will be paid on part of the deferred income in later years when those individuals who elect to take a lump payment of their contributions pay their deferred taxes.
- (3) The increased spendable income will provide additional state tax revenues as it is spent by the wage earner.

I believe the state of Montana should join the majority of state governments and share in the tax break offered by the Internal Revenue Service under 414(h). It is not too often the IRS extends any significant tax break to the middle income wage earner.

I hope you will support the bill so that Montana public employees will enjoy the same tax break as their counterparts in other states such as Idaho and Illinois.

Larry Nachtsheim, Administrator
Public Employees' Retirement Division

5/20/85

SB247

John Dahl, Helena.

Marlin Brackney, Great Falls.

Harley Warner, Helena.

Jack Colvin, Butte (EXHIBIT 7).

Opponents:

Ellen Feaver (624), Director, Department of Administration, opposes the bill (EXHIBIT 8). There are 900 employees eligible. She said the state is concerned about double-dipping. She said the state would like to keep employees who are productive - aged 45 to 55. The employer outlay on an annual basis would be almost half a million dollars.

Discussion:

(Tape 71:B:000)

Representative Miller said if a person works 25 years and earned retirement, he does not consider it double-dipping if he gets another job.

Representative Donaldson asked if there is any experience in another state which would indicate how many of the 900 eligible employees would actually retire. Ellen Feaver said the best guess is about 250.

Representative Hand (024) asked how you can let people retire 5 years early, which denies the fund 5 years of premiums, and say it is not going to cost more money.

In response to a question from Senator Fuller, he said this bill is an identical copy of the teachers retirement.

Representative Spaeth (065) said rights under retirement are very technical as far as the law is concerned; and the amendments set up a two year opportunity and then the Legislature is to take a look to see if they want to continue the experiment. He asked if anyone has addressed the possibility that there might be a lawsuit saying, "I was a 24-year person in two years and the next year I decided I would like to take early retirement." If the Legislature doesn't extend this, would we be liable. Senator Fuller said it is a privilege, not a right; also, by the employer contribution rather than the employee, there is no vested interest.

Senator Fuller closed on his bill.

SENATE BILL 247: "AN ACT REQUIRING A PUBLIC EMPLOYER TO PICK UP A MEMBER'S CONTRIBUTIONS UNDER THE PUBLIC EMPLOYEES', TEACHERS', HIGHWAY PATROLMEN'S, SHERIFFS', STATE GAME WARDENS', AND MUNICIPAL POLICE OFFICERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; REQUIRING THE EMPLOYER TO DEDUCT FROM THE MEMBER'S CONTRIBUTIONS PICKED UP BY THE EMPLOYER; REQUIRING A MEMBER TO PAY

Appropriations Committee

March 28, 1985

STATE AND LOCAL TAXES ON A REFUND OF HIS CONTRIBUTIONS; AMENDING SECTIONS 15-30-111, 15-30-136, 19-3-105, 19-3-701, 19-4-101, 19-4-208, 19-4-602, 19-4-706, 19-4-707, 19-6-402, 19-6-705, 19-7-403, 19-7-705, 19-8-502, 19-8-805, 19-9-601, AND 19-9-1005, ~~19-13-601~~, AND ~~19-13-1003~~, MCA; AND PROVIDING AN EFFECTIVE DATE.

Senator Daniels, sponsor of the bill, was not present, but Chairman Bardanoue (231) said because there are witnesses present, the committee would hear their testimonies.

Proponents:

Ellen Feaver, Director, Department of Administration, explained the bill. The bill defers taxes on the employee's contribution to PERS. She submitted a handout to the committee titled "Pick Up and Pay" (EXHIBIT 9).

Larry Nachtsheim, Administrator, PERS, supports the bill (EXHIBIT 10).

Mary Lou Garrett (380) supports the bill.

Discussion:

Representative Miller (432) asked what is wrong with the bill because there are no opponents. Mr. Schneider said there are two disadvantages: (1) it's a federal IRS code and is not a federal statute, so it could disappear; (2) if a person retiring has deferred all his income, he is going to have a heavy tax burden.

Adjourn: The meeting adjourned until 7 a.m. tomorrow.


FRANCIS BARDANOUVE, Chairman

SENATE BILL 361: Representative Moore (067) made a motion that Senate Bill 361 be TABLED. A roll call vote was taken and the motion carried, with Representatives Connelly, Lory, Menahan, Miller, Peck and Quilici voting no.

Dr. Lory (087) made a motion the committee reconsider its action on Senate Bill 361.

Representative Menahan asked Leo Berry what this bill does for the lower-paid people working for him. Leo Berry said the formula was designed in cooperation with the PERS Board to assist people at the lower end of the scale and the people at the upper end of the retirement scale would receive a smaller increase. He said the Board of Investments have increased the PERS Fund by .14 percent. The bill could be funded at no cost to the state by reducing the \$45 down to \$25 and leaving the employer contribution where it is. Chairman Bardanoue said this would use up the PERS reserves. Leo Berry said the PERS Board has agreed the Fund can be actuarially sound and in compliance with standards if that is done. The Board has given authorization to have this done, he said. Representative Bardanoue said he has heard this same kind of argument and two years later the Legislature is told, "Well, it's running a little bit behind." Leo Berry said the Fund has gone from an unfunded liability of 42 years to 36 years in the last biennium, so there is some cushion and in order to help these people a little bit, the Board felt they were willing to do this as a one-time increase.

A roll call vote was taken and the motion failed, with Representatives Bardanoue, Ernst, Hand, Manuel, Moore, Nathe, Peck, Rehberg, Swift, Thoft and Waldron voting no.

HOUSE BILL 754: Representative Connelly made a motion that House Bill 754 DO PASS. A roll call vote was taken and the motion carried, with Representatives Ernst, Hand, Nathe and Swift voting no.

SENATE BILL 315: Representative Donaldson made a motion that Senate Bill 315 be TABLED. A voice vote was taken and the motion carried.

HOUSE BILL 632: Representative Donaldson made a motion to amend the bill, with the amendments to be written up by the LFA (See Standing Committee Report). A roll call vote was taken and the motion carried, with Representatives Connelly and Menahan voting no.

Representative Donaldson made a motion that House Bill 632 AS AMENDED DO PASS. A voice vote was taken and the motion carried, with Representative Lory voting no.

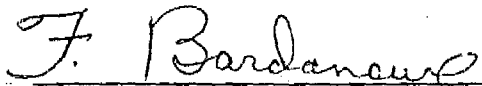
SENATE BILL 247: Representative Moore made a motion that Senate Bill 247 BE CONCURRED IN. A roll call vote was taken and the

Appropriations Committee
March 31, 1985

motion carried, with Representatives Bardanouve and Hand voting no.

SENATE BILL 315: A motion was made that Senate Bill 315 be TABLED. A voice vote was taken and the motion carried.

Adjourn: The meeting adjourned at 7 p.m.



FRANCIS BARDANOUE, Chairman